

REMARKS

I. Status of the Claims

Prior to this Amendment, claims 1-27 were pending in the application, and were rejected. Claim 2 was objected to. Claim 28 was previously cancelled. Applicants acknowledge and appreciate that the Examiner indicated claims 13, 23, 25, and 26 contain allowable subject matter. See Final Office Action at 28-29.

By this Amendment, Applicants adopt the Examiner's suggestions made on pages 28-29 of the Final Office Action, regarding allowable subject matter. Specifically, the subject matter of claim 13, which was indicated to contain allowable subject matter, was incorporated into claim 1, and the subject matter of claim 23, which was indicated to contain allowable subject matter, was incorporated into claim 14, which was also redrafted in independent form. In addition, claims 25 and 26, which were also indicated to contain allowable subject matter, were redrafted in independent form.

No new matter has been added by these Amendments nor do these Amendments raise new issues or necessitate the undertaking of any additional search of the art by the Examiner. All of the elements and their relationships now claimed were either earlier claimed in the claims as examined, or adopt suggested amendments proposed by the Examiner. Therefore, this Amendment under 37 C.F.R. § 1.116 should allow for immediate action by the Examiner. The proposed amendments, moreover, place the claims in condition for allowance or, at least, in better form for appeal, if necessary.

Upon entry of the proposed amendments, claims 1-8, 10, 11, 14-16, 18, 20-22, and 24-27 will be pending and under examination. Claims 9, 12, 13, 17, 19, 23, and 28 are cancelled.

Reconsideration of the application, as amended, is requested in view of the remarks below.

II. Claim Objections

The Examiner objects to the use of the word “evaporated” in claim 2. See Final Office Action at 2-3. Applicants have amended claim 2 and changed the word “evaporated” into “evaporates” as the Examiner suggests. Accordingly, Applicants respectfully request the withdrawal of the objection to claim 2.

III. Rejection under 35 U.S.C § 112

Claims 1-27 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter with Applicants regard as the invention. See Final Office Action at 3.

In particular, the Examiner considers “that each bipolar plate has six faces” and questions whether “the other side” refers to another face of the bipolar plate or “another side of the same face (for example left and right side of a single face).” *Id.* at 3. Applicants respectfully disagree with the notion that a face has two sides because, by the Examiner’s own calculation, a bipolar plate having 12 sides would result.

Nevertheless, in an attempt to advance prosecution of this application, Applicants amended claim 1 to recite that a bipolar plate comprises “a first planar side” and “a second planar side.” Support for the amendment can be found throughout the

specification, including the original claims, Figures 2a, 7a, and 10a, as well as in the paragraphs [0029]-[0030] of the U.S. Patent Publication US 2007/019710 (“the ‘710 publication”), which is the publication of the present application. Accordingly, this reason for rejection has been rendered moot.

The Examiner also points out that the limitation “the gaseous reactants” lacks sufficient antecedent basis. See Final Office Action at 3-4. Applicants have amended claim 1 to recite “a flow of gaseous reactants,” which is supported by, for example, the original claim 1. Applicants also amended claims 2, 3, 5, 14, 18, 20, 21, 25, and 26 to consistently recite this claim limitation.

Applicants submit that the amendments have rendered the rejection under § 112, second paragraph, moot and respectfully request the withdrawal of the rejection.

IV. Allowable Subject Matter

The Examiner considers that claims 13, 23, 25, and 26 would be allowable if rewritten to overcome the rejections under 35 U.S.C. § 112, 2nd paragraph. See Final Office Action at 28. As shown in Section III, Applicants amended the claims and rendered the section 112 rejections moot.

With respect to the subject matter previously indicated as being allowable, Applicants amended claim 1 to incorporate the subject matter of allowable claim 13, as well as the subject matter of claims 9 and 12, which are the intervening claims between claims 1 and 13. Consequently, amended claim 1 has the same scope as allowable claim 13.

Furthermore, Applicants has amended claim 14 to incorporate the subject matter of allowable claim 23, as well as the subject matter of intervening claims 17 and 19, and

to draft the claim in independent form. Consequently, amended claim 14 has the same scope as allowable claim 23.

Likewise, claims 25 and 26 have been rewritten in independent form, each incorporating the subject matter set forth in previously-presented claims 1, 14, 17, and 19.

Applicants submit that the amended claims 1, 14, 25, and 26 are now allowable. Claims 2-8, 10-11 and 27 depend from the allowable claim 1, and claims 15, 16, 18, and 20-22 dependent from the allowable claim 14. Therefore, these dependent claims are also allowable. Applicants submit that the pending claims, as amended, are allowable.

V. Rejection under 35 U.S.C § 102

The Examiner rejected multiple claims under 35 U.S.C. § 102(b). See Final Office Action at 4-13. Applicants submit that the § 102(b) rejection has been rendered moot by the amendments and request its withdrawal.

VI. Claim Rejections under 35 U.S.C. § 103

The Examiner rejected multiple claims under 35 U.S.C. § 103(a). See Final Office Action at 14-28. Applicants submit that the § 103(a) rejection has been rendered moot by the amendments and request its withdrawal.

VII. Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.


Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: August 27, 2009

By:

A handwritten signature in black ink, appearing to read "Mark D. Sweet", written over a horizontal line.

Mark D. Sweet
Reg. No. 41,469